

BEFORE THE GROWTH MANAGEMENT HEARINGS BOARD
CENTRAL PUGET SOUND REGION
STATE OF WASHINGTON

SNOHOMISH COUNTY FARM BUREAU,

Petitioner,

v.

SNOHOMISH COUNTY AND WASHINGTON
STATE DEPARTMENT OF ECOLOGY,

Respondents.

CASE No. 12-3-0008

(SCFB I)

**ORDER DENYING
RECONSIDERATION**

THIS matter comes before the Board on the motions of Petitioner Snohomish County Farm Bureau for reconsideration of the Final Decision and Order issued March 14, 2013, and for opportunity for oral argument.¹ Respondents Snohomish County and Ecology filed a joint answer urging that the motions be denied.²

WAC 242-03-830(2) provides:

A motion for reconsideration shall be based on at least one of the following grounds:

- (a) Errors of procedure or misinterpretation of fact or law, material to the party seeking reconsideration;
- (b) Irregularity in the hearing before the board by which such party was prevented from having a fair hearing.

Petitioner assigns the following errors:

1. The Board erred (FDO, p.20) in ruling that the GMACP GPP LU7.B requirement to "conserve designated farmland and limit the intrusion of non-agricultural uses into designated areas" does not address encroachment for restoration purposes.

¹ Petitioner's Motion for Reconsideration, March 22, 2013; Petitioner's Motion to be Heard on Reconsideration, March 25, 2013; and Petitioner's Brief in Support of Motion for Reconsideration, March 25, 2013.

² Snohomish County's and Washington State Department of Ecology's Joint Answer to Petitioner's Motion for Reconsideration and Petitioner's Motion to be Heard on Reconsideration, April 1, 2013.

1 2. The Board erred (FDO, p. 25) in ruling that GMA designated agricultural land
2 that "is no longer being farmed" is not SMA farmland.

3 3. The Board erred (FDO, pp. 26-28) in ruling that modifying farmland to fish
4 habitat is not land use conversion.

5 The Bureau asserts in each of these rulings the Board "allowed statutory text to trump
6 legislative intent."³

7
8 The County and Ecology oppose reconsideration on the grounds a motion for
9 reconsideration is not intended to give a petitioner an opportunity to reargue a case or
10 correct its own errors.⁴ They contend legislative intent is irrelevant where the statutes on
11 which the Board's FDO relied are unambiguous.

12
13 In its March 14, 2013 Final Decision and Order, the Board dismissed the Farm Bureau's
14 contention that failure to include provisions in the Shoreline Master Program to ensure a de-
15 designation process when agricultural land is inundated to provide shoreline restoration
16 violated the Shoreline Management Act. The Board found the Bureau failed to meet its
17 burden of proof, in part, through erroneous citations and reliance on inapplicable statutes.
18 The Board's conclusion was also "due, in part, to the narrow scope of Board review for
19 SMPs concerning shorelines of statewide significance and to the limitation on review for
20 regulatory consistency"⁵ as set forth in RCW 90.58.190(2)(b) and (c).

21
22 The Farm Bureau's Motion for Reconsideration provides no authority that would alter the
23 Board's application of RCW 90.58.190(2)(b) and (c); therefore reconsideration of other
24 elements of the decision would not change the outcome of the case.
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30 ³ Motion for Reconsideration, at 1-2.

31 ⁴ Joint Answer, at 3, citing *Petso v. City of Edmonds (Petso II)*, CPSGMHB Case No. 09-3-0005, Order
32 Denying Reconsideration (Sept. 4, 2009), at 2; *Brinnon Group v. Jefferson County*, WWGMHB Case No. 08-2-
0014, Order on Reconsideration (Oct. 14, 2008) at 6-7.

⁵ FDO at 1.

1 Upon review of the matter, the Board finds no misinterpretation of fact or law or other error
2 or irregularity requiring reconsideration. The motion for reconsideration is **denied**. The
3 Board will not reopen the case for re-argument. The motion to be heard on reconsideration
4 is also **denied**.

6 **ORDER**

7 The Board ORDERS:

- 8
- 9 • Petitioner's Motion for Reconsideration of the March 14, 2013 Final Decision and
10 Order in this case is **denied**.⁶
- 11 • Petitioner's Motion to be Heard on Reconsideration is **denied**.

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13 DATED this 4th day of April, 2013.

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16 Margaret A. Pageler, Board Member

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19 William Roehl, Board Member

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22 Cheryl Pflug, Board Member

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⁶ Pursuant to RCW 36.70A.300 this is a final order of the Board. A Board order on a motion for reconsideration is not subject to a motion for reconsideration. WAC 242-03-830(5).